

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

TOM BECK,)	
)	
Plaintiff,)	
)	
vs.)	No. 4:08CV571 HEA
)	
J.W. BOMMARITO CONSTRUCTION,)	
)	
Defendant.)	

ORDER

This matter is before the Court on Defendant's Motion for Partial Summary Judgment on Count II (FMLA), [Doc. 3]. On July 2, 2008, this Court ordered the parties to conduct discovery on the issue of the number of employees employed by Defendant in order to ascertain whether Defendant was an "employer" within the meaning of the term in the Family Medical Leave Act. The Court also ordered Plaintiff to file an Amended Count I with respect to which state law he intended to pursue his cause of action.

On July 11, 2008, Plaintiff filed an Amended Complaint. This Amended Complaint set forth the state law basis for his retaliation claim. The Amended Complaint no longer contains a count under the FMLA. As such, such claim has been abandoned by Plaintiff. The Motion for Summary Judgment is therefore moot.

Accordingly,

IT IS HEREBY ORDERED that the Motion for Summary Judgment, [Doc. No. 3], is denied as moot.

Dated this 15th day of July, 2008.

A handwritten signature in black ink, reading "Henry Edward Autrey", written over a horizontal line.

HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE